

**PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

**ENERGY DIVISION**

**RESOLUTION E-3934  
June 30, 2005**

**R E S O L U T I O N**

Resolution E-3934. Southern California Edison Company requests approval of six new renewable resource procurement contracts with: Liberty Biofuels Power, Sierra Biomass, Green Borders Geothermal, Mountain View Power Partners IV (wind), Coram Energy (wind) and Aero Energy (wind).

By Advice Letter 1876-E Filed on March 8, 2005.

---

**SUMMARY**

**SCE's Six Renewable contracts comply with the interim bidding procedure and are approved.**

SCE's request for approval of six renewable resource procurement contracts is granted under the interim procedures adopted in D. 02-08-071 and Assigned Commissioner Peevey's Ruling of August 13, 2003. The energy acquired from these contracts will count towards SCE's Renewable Portfolio Standard (RPS) requirements.

**BACKGROUND**

**The Commission provided guidance to the utilities on procuring renewable energy resources prior to full implementation of the Renewables Portfolio Standard (RPS) Program.**

D. 02-08-071 authorized the utilities to enter into procurement contracts between the effective date of the decision and January 1, 2003. On August 13, 2003, Assigned Commissioner Peevey in Rulemaking (R.) 01-10-024 issued a ruling, "Assigned Commissioner's Ruling Specifying Criteria for Interim Renewable Energy Solicitations" (ACR), which specified criteria for any further renewable energy procurement by the utilities prior to full RPS implementation. This is referred to as the "interim" procedure. The ACR set forth the following general process requirements:

1. A utility must abide by the terms of the Commission's first RPS implementation decision (D.03-06-071);
2. Utilities may engage in bilateral negotiations or may issue a competitive solicitation (request for offer (RFO)) to receive bids;
3. Issuance of an interim RFO by a utility does not constitute filing of a RPS procurement plan under the terms of D.03-06-071;
4. Any renewable procurement in the interim period must not anticipate the use of any Supplemental Energy Payments (SEPs) to be awarded by the California Energy Commission (CEC) pursuant to Public Utilities Code Sec. 383.5(d);
5. The utilities are allowed to "roll over" any under-procurement in 2003 into the Annual Procurement Target (APT) for 2004 without penalty. A decision not to issue an RFO prior to full RPS implementation will not waive this immunity. Conversely, any contract signed as a result of a bilateral negotiation or an RFO, and approved by the Commission, should count toward the APT; and
6. Following PRG review of any proposed contracts, the utility may submit those contracts for Commission approval via Advice Letter.

**SCE requests approval of six new renewable energy contracts.**

On March 8, 2005, SCE filed AL 1876-E in compliance with initial guidance for implementation of the Renewable Portfolio Standards (RPS) Program, as set forth in Sections 399.11 through 399.16 of the California Public Utilities Code, and the August 13, 2003 Assigned Commissioner's Ruling Specifying Criteria for Interim Renewable Energy Solicitations in Rulemaking (R.) 01-10-024 (the ACR). SCE filed AL-1876-E under the interim authority provided in D.02-08-071.

SCE executed contracts with Liberty Biofuels Power, Sierra Biomass, Green Borders Geothermal, Mountain View Power Partners IV (wind), Coram Energy (wind) and Aero Energy (wind). These six eligible renewable projects include wind, geothermal, biomass, and biofuel projects. They were selected by SCE based on a Request for Offers (RFO) originally issued in 2003.

D.04-12-048, Ordering Paragraph 21 adopted a deadline of February 8, 2005, after which the interim authority would expire. SCE requested on February 3, 2005, and was granted on February 8, 2005, a 30-day extension to file its AL via a letter from the CPUC Executive Director, Steve Larson. The AL was filed on March 8, 2004.

SCE in its AL seeks “Final CPUC Approval” of six (6) power purchase agreements (the PPAs). Commission approval of all 6 PPAs will result in SCE’s procuring approximately an additional 643 to 2,127 GWh annually from eligible renewable energy resources (“ERRs”) depending on the build-out allowed under each PPA. This represents from approximately 0.9% to 2.9% of SCE’s annual sales (including CDWR sales but excluding direct access sales) recorded for 2004. These PPAs represent an additional 142 to 428MWs of installed renewable production capacity from technologies including wind, geothermal, and biomass<sup>1</sup>.

**The RPS Program requires each utility to increase the amount of renewable energy in its portfolio, subject to requirements specified by the Legislature and the Commission.**

The RPS Program, created by SB 1078 (Statutes of 2002, Chapter 516, codified in Sections 399.11 through 399.16 of the California Public Utilities Code), requires each utility to increase the amount of renewable energy in its portfolio to 20 percent by 2017, increasing by a minimum of one percent per year. The Energy Action Plan (EAP) called for acceleration of this goal to reach 20 percent by 2010. The Assigned Commissioner’s Ruling and

---

<sup>1</sup> The California Energy Commission is responsible for certifying the RPS eligibility of renewable resource types, and determining whether geothermal energy sources count toward a utility’s baseline or incremental renewable procurement.

Scoping Memo for Phase II of the Renewables Portfolio Standard Program issued on December 6, 2004, encourages the utilities to procure cost-effective renewable generation in excess of their Annual Procurement Targets (APTs) for 2004, in order to make progress towards the goal expressed in the EAP.

In order for the output of a renewable resource to count toward a utility's RPS requirements, the resource must meet the requirements of an "eligible renewable energy resource" under the definitions of the program. Biofuel, biomass, geothermal and wind energy facilities are eligible renewable energy resources.

R.04-04-026 established a framework for further implementation of the RPS Program, including establishing baseline quantities and 2004 procurement targets for the utilities. As stated above, the RPS Program requires each utility to increase the amount of renewable energy in its portfolio to 20 percent by 2017, increasing by a minimum of one percent per year. The Commission establishes an APT for each utility, which consists of two separate components: the baseline, representing the amount of renewable generation a utility must retain in its portfolio to continue to satisfy its obligations under the RPS targets of previous years; and the incremental procurement target (IPT)<sup>2</sup>, defined as at least one percent of the previous year's total retail electrical sales, including power sold to a utility's customers from its DWR contracts.

## **NOTICE**

Notice of AL 1876-E was made by publication in the Commission's Daily Calendar on March 14, 2005. SCE states that a copy of the Advice Letter was mailed and distributed in accordance with Section III-G of General Order 96-A.

---

<sup>2</sup> Decision D.04-06-014.

## **PROTESTS**

Advice Letter AL 1876-E was not protested.

## **DISCUSSION**

SCE claims the proposed pricing and terms of the six contracts are beneficial for ratepayers, because SCE's contract ranking methods are based on finding the lowest cost and best fit options. SCE has made a good faith effort to comply with the form of the final procurement rules. SCE issued a Request For Offers (RFO) and used a least cost and best fit ranking procedure for choosing between bids, pursuant to the RPS Decision. This section will explain why SCE's request for contract approval should be granted.

We grant SCE's request to maintain confidentiality for contract details filed under seal pursuant to Public Utilities (PU) Code Section 583 and General Order (G.O.) 66-C.

**The table below gives details of the six contracted projects:**

| <u>2003 RENEWABLE SOLICITATION</u><br>General Contract Details |   |                 |                      |            |          |                     |          |                     |                 |
|--|---|-----------------|----------------------|------------|----------|---------------------|----------|---------------------|-----------------|
| Item   | Generating Facility Name  | Generation Type | Initial On-Line Date | Term Years | MWh/hour |                     | GWh/year |                     | Location        |
|  |   |                 |                      |            | Initial  | Expansion Potential | Initial  | Expansion Potential |                 |
| 1  | Liberty I Biofuels Power, LLC<br>(McCarthy Family Farms, Inc.)    | Biomass         | 31-Dec-07            | 15         | 5.0      | 15.0                | 37       | 110                 | Imperial Valley |
| 2  | Sierra Biomass, LLC<br>(Silvan Power Company)                     | Biomass         | 31-Dec-07            | 20         | 7.5      | 22.5                | 56       | 168                 | Western Sierra  |
| 3  | Green Borders Geothermal, LLC<br>(Vulcan Power Company)           | Geothermal      | 31-Mar-08            | 20         | 30.0     | 120.0               | 231      | 925                 | Western Nevada  |
| 4  | Mountain View Power Partners IV, LLC<br>(SeaWest Windpower, Inc.) | Wind            | 31-Dec-06            | 20         | 37.0     | 50.0                | 118      | 159                 | San Geronio     |
| 5  | Coram Energy, LLC<br>(Coram Energy Group LTD.)                    | Wind            | 31-Dec-06            | 20         | 12.0     | 100.0               | 47       | 394                 | Tehachapi       |
| 6  | Aero Energy, LLC<br>(Western Wind Energy Corp.)                   | Wind            | 31-Dec-06            | 20         | 50.0     | 120.0               | 154      | 370                 | Tehachapi       |
|  |   |                 |                      |            |          |                     |          |                     |                 |
|  |   |                 |                      |            | 142      | 428                 | 643      | 2,127               |                 |

Other contract specific information contained in the confidential appendix to this resolution will not be released.

**The contracts are consistent with the SCE Long Term Procurement Plan.**

The mix of renewable technologies meets the diversity goal of the plan. The bids were ranked using a measure of least cost and best fit analysis. The bid rankings were done using computer model runs based on SCE's 2003 Long Term Preferred Procurement plan. Although it would have been better to use the December 2004 CPUC approved plan, this was not yet available at the time of the model runs. It is not evident that using the CPUC plan would have changed the *relative* rankings of the bids.

**The Standard Terms and Conditions (STC) are consistent with the CPUC's adopted standard terms and conditions.**

These STCs, established in Decision D.04-06-014, included some leeway. We note no terms and conditions that violate the STCs. We recognize there are elements that are negotiated between the utility and the renewable bidder.

**The bid evaluation process is consistent with the CPUC's adopted Least Cost and Best Fit (LC/BF) decision.**

The RFP and resulting PPAs substantially comply with the Least Cost Best Fit Methodology approved by the Commission in D.04-07-029. The SCE Procurement Review Group (PRG) was involved in developing the ranking methods used for the contracts, and while some PRG members voiced concerns about SCE's proposed ranking method, the PRG ultimately accepted SCE's methodology as described below.

To generate a short list of bidders in the RFP, SCE used an evaluation model that substantially complied with the Least Cost and Best Fit Methodology approved by the Commission in D.04-07-029. The Confidential Appendix shows in Exhibit A-3 the ranking of the bids based on an SCE calculated benefit to cost ratio (B/C). These benefits and costs are estimated by use of the Global Energy Marketsym and Global Energy Risksym production simulations models<sup>3</sup>. SCE evaluated Individual projects using Edison's specific resource plan to determine the effect on the total system production costs. The models considered the benefits and costs associated with each proposed renewable project. Specifically, the models calculated the replacement energy benefits associated with a particular project, including energy remarketing costs. Also included was an estimated cost of any necessary transmission improvements.

**The SCE ranking method compares the expected overall contract value with other bids received in the RFO** (including the total cost of contract with transmission costs compared to other bids not selected, capacity value, and overall lower cost due to better portfolio "fit"). This is included in the SCE ranking method, being based on a B/C which includes the total cost of the contract. [REDACTED.] Since the modeling includes a daily projected output pattern for each bid, and an hourly estimated spot market price, this will increase the rank of bids with a good fit to portfolio needs.

---

<sup>3</sup> These production simulation models are the same models used by Edison in the long term resource planning proceeding and for other Edison projects, such as the Mountainview project, the SONGS steam generator replacement filing and the Mohave Generating Station analysis.

Remarketing costs are also estimated by the production cost models. When the necessary minimum purchase of contracted power from all sources exceeds the expected load, the model compares its predicted spot market price to the contract price for the bid being analyzed, and finds any profit or loss due to having the contract for the hour based on which price is higher.

**The contracts are consistent with CPUC's adopted Transmission decision.**

The projects are located where they will not require any transmission upgrades, except possibly for one [REDACTED]. The contracts contain provisions that place risk of transmission constraint on the producers. None of the contracts are expected to supply RMR.

**No bidder claimed to have special qualities with regard to local reliability, benefits to minority and low income communities and environmental stewardship.**

These factors played no role in the bid ranking.

**The contracts show significant resource diversity.**

SCE shows that its ranking system allowed all the technologies to be represented in their first cut. SCE grouped the bids by "baseload", "peaking" and "as available". [REDACTED] But the evaluation method was the same for all. However the "peaking" plants (e.g. solar) will get benefits based on their higher production during high energy cost summer afternoon hours. This will increase their B/C ratio.

**Debt equivalence has no significant effect on the ranking order or on contract selection.**

This was included in the evaluation methodology, but did not have a significant effect on the ranking order or on contract selection.

**SCE verified Project Viability associated with Filed Contracts.**

Project Viability is the probability that the resource associated with an offer can be financed and completed as required by the agreement and will be available to provide capacity and energy and/or ancillary services when

called upon. Measures include project status, milestones, performance criteria to predict the likelihood of timely performance, and sponsor's creditworthiness and experience. SCE developed measures to analyze these in its evaluation, and added contract elements, including posting of bonds, to protect themselves. Thus, these projects were deemed viable per SCE's criteria.

**PRG feedback was generally positive.**

In D. 02-08-071, the Commission required each utility to establish a Procurement Review Group (PRG) whose members, subject to an appropriate non-disclosure agreement, have the right to consult with the utilities and review the details of the:

1. Overall transitional procurement strategy;
2. Proposed procurement processes including, but not limited to, RFO; and
3. Proposed procurement contracts before any of the contracts are submitted to the Commission for expedited review.

The PRG for SCE includes the California Department of Water Resources, California Energy Commission, the Commission's Energy Division, Natural Resources Defense Council, Office of Ratepayer Advocates (ORA), The Utility Reform Network (TURN), and others. SCE discussed these contracts with its PRG and provided it with the details of the contracts and the method used to choose between the bids. The members of SCE's PRG either supported or did not oppose the approval of these contracts.

**The possible non-extension of the federal Production Tax Credit after 2005 could significantly increase the cost of renewable PPAs.**

The federal production tax credit (PTC) was recently extended to the end of 2005. Its extension for projects becoming operational in later years is probable, but not certain. Some of the accepted bids include the assumption that the PTC will be available. If not, these bids may no longer be viable as prices would presumably increase about 1.8 cents/kWh, the approximate value of the PTC. [REDACTED]

**Contract Terms**

The contract outlines terms that protect the ratepayer from under-performance/default of the generator while also providing SCE all of the environmental attributes associated with purchased output. The key terms include:

- The contracts contain performance standards, and in the event that actual output is below guaranteed energy production, the contractors are subject to penalties for failing to meet those standards;
- The selected contractors are subject to penalties if the project does not come on line by date specified by specific contracts.
- All environmental attributes associated with output purchased by SCE shall be the property of SCE at no additional cost and in their entirety without unbundling of any component attributes.

The terms and conditions of delivery shown in Advice Letter 1876-E include point of delivery, scheduling coordinator, allocation of congestion risk, and mitigation mechanisms. [REDACTED]

**The proposed contract is contingent upon several conditions:**

- 1) Commission approval of terms, conditions, and of full recovery of costs associated with Agreement
- 2) Commission finding that output delivered under the Agreement will count towards SCE's APT and that the Agreement is in compliance with the California RPS program requirements under SB 1078<sup>4</sup>.
- 3) Commission finding that the output purchased by SCE under the Agreement includes all Renewable environmental attributes associated with that output.

---

<sup>4</sup> The California Energy Commission is responsible for determining the RPS-eligibility of a renewable generator. Also see CPUC decision D.04-06-014.

## **COMMENTS**

This is an uncontested matter in which the resolution grants the relief requested. Accordingly, pursuant to PU Code 311(g) (2), the otherwise applicable 30-day period for public review and comment is being waived.

## **FINDINGS**

1. The “Assigned Commissioner’s Ruling Specifying Criteria for Interim Renewable Energy Solicitations,” issued on August 13, 2003, specified criteria for any further renewable energy procurement by the utilities prior to full RPS implementation. The Ruling stated that a utility may submit renewable energy contracts for Commission approval via Advice Letter.
2. SCE filed Advice Letter 1876-E on March 8, 2005, requesting Commission review and approval of six new renewable energy contracts.
3. The RPS Program requires each utility, including SCE, to increase the amount of renewable energy in its portfolio to 20 percent by 2017, increasing by a minimum of one percent per year. The Energy Action Plan (EAP) called for acceleration of this goal to reach 20 percent by 2010.
4. Wind energy facilities, geothermal facilities, biofuel facilities, and biomass facilities are RPS-eligible renewable energy resources.
5. The Commission required each utility to establish a Procurement Review Group (PRG) to review the utilities’ interim procurement needs and strategy, proposed procurement process, and selected contracts.
6. SCE briefed its PRG regarding these contracts. The members of SCE’s PRG either supported or did not oppose these contracts.
7. Certain material filed under seal pursuant to Public Utilities (Pub. Util.) Code Section 583 and General Order (G.O.) 66-C, and considered for possible disclosure, should not be disclosed. Accordingly, the “Confidential Appendix” should not be included with the “unredacted” version of this resolution. Also, items enclosed in brackets [] in the unredacted version should not be disclosed in the redacted version.

8. The purchased output of the facilities under the PPAs will count toward SCE's RPS requirements.
9. Any electric energy sold to SCE pursuant to the PPAs ("Procurement") constitutes procurement by SCE from an eligible renewable energy resource (ERR) for the purposed of determining SCE's compliance with any obligation that it may have to procure from ERR pursuant to the RPS Program or its successor.
10. All Procurement counts in full, subject to CEC determination of eligibility, towards any annual procurement target established by the RPS Program or its successor.
11. All Procurement counts in full, subject to CEC determination of eligibility, towards the requirement in the RPS Program that SCE procure 20% (or such other percentage as may be established by law) of its retail sales from ERRs by 2010, pursuant to the Energy Action Plan (or such other date as may be established by law).
12. The solicitation for renewable energy which resulted in the PPAs and SCE's conduct in respect of the solicitation were reasonable.
13. Each of the PPAs, and SCE's entry into the PPAs, are reasonable and prudent. SCE may recover in rates payments made pursuant to the PPAs, subject only to further review with respect to the reasonableness of SCE's administration of the PPAs.
14. SCE filed these contracts under the less stringent interim renewable solicitation rules, and they are being approved under these rules. However, SCE has made a good faith effort to comply with the form of the final procurement rules. For these reasons, and because the final procurement rules were still under development at the time these bids were being solicited and evaluated, the Energy Division finds these contracts acceptable based on the interim bidding procedure.

**THEREFORE IT IS ORDERED THAT:**

1. Advice Letter AL 1876-E is approved.
2. This Resolution is effective today.

I certify that the foregoing resolution was duly introduced, passed and adopted at a conference of the Public Utilities Commission of the State of California held on June 30, 2005; the following Commissioners voting favorably thereon:

---

STEVE LARSON  
Executive Director

MICHAEL R. PEEVEY  
PRESIDENT  
GEOFFREY F. BROWN  
SUSAN P. KENNEDY  
DIAN M. GRUENEICH  
Commissioners

Commissioner John A. Bohn being  
necessarily absent did not participate.